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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/922,910	08/06/2001	Donald F. Gordon	SEDN/113CON2	9300

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EXAMINER

SHANG, ANNAN Q

ART UNIT	PAPER NUMBER
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2424

MAIL DATE	DELIVERY MODE
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03/10/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/922,910	Applicant(s) GORDON ET AL.	
	Examiner ANNAN Q. SHANG	Art Unit 2424	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 February 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: _____.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
 13. ☐ Other: _____.

/Annan Q Shang/
 Primary Examiner, Art Unit 2424

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments filed 02/06/09 have been considered, but are not persuasive. With respect to claims 1-19, rejected under 35 U.S.C. 103(a) as being unpatentable over Knudson et al (6,016,141) in view of Hendricks et al (6,201,536) and further in view of Funahashi et al (5,691,915), Applicant, discusses the prior arts of record and the claimed invention and argues that the prior arts do not teach the claim limitations, i.e., fails to teach or suggest "...at least the providing a set of more than two on-demand programs..." that "...packaging the set into a subset having at least two on-demand programs of the set of on-demand programs..." etc., (see pages 5 of 10+ of Applicant's Remarks).

In responses, Examiner notes Applicant's arguments, however, the Examiner disagrees. Knudson teaches a server (MF/TV-DF 22/26) which provides a set of more than two programs; packaging the set into a subset having at least two programs (fig.1 col.3, lines 9-21 and col.4, line 22-col.5, line 16), provides a user interface (figs.2 and 7-9, col.4, lines 16-col.5, line 16) having the subset as a selectable object, the user interface configured to allow selection of the selectable object representing the subset of at least two programs to be purchased as a package for on-demand access (fig.6, col.4, line 38-col.5, line 30, line 52-col.6, line 57 and col.7, line 5-59). Knudson further determines if the programs are purchasable programs or part of one or more packages of pay programs and makes the programs available for impulse purchasing, immediately providing the selection in its entirety upon purchasing, and offers multiple packages of programs (near video-on-demand (NVOD), PPV, etc.) to subscribers for purchasing on a daily, weekly, monthly, etc., basis, but fails to explicitly teach providing VOD or on-demand program services (fig.6, col.4, line 38-col.5, line 30, line 52-col.6, line 57 and col.7, line 5-59). Although Knudson teaches NVOD, PPV, IPPV, et., Knudson is silent as to VOD. However, in the same field of endeavor, Hendricks discloses network manager for cable TV system Head-ends, which provides program packages, IPPV, NVOD, VVOD, VOD, etc., upon request from subscribers (figs.1-8, col.6, lines 56-65, col.4, line 1-14, col.8, line 8-col.9, line 38 and col.18, line 1-col.19, line 1+). Knudson as modified by Hendricks, fail to explicitly teach receiving a selection of the subset of the multiple programs and immediately providing the selection if a price of the selection is zero (i.e. free or promotional programs). However, Funahashi discloses data transmission device which provides some pay programs free of charge (figs.1-2, col.1, line 47-col.2, line 1+, col.4, lines 13-52, col.5, line 9-col.6, line 1+). Hence, the 103(a) rejection is proper, meets all the claims limitations. The finality of the last office action is hereby maintained.